

# **FRAMINGHAM WETLANDS PROTECTION REGULATIONS**

**Promulgated at the February 9, 2005 Conservation Commission Public Meeting**

Amended at the August 31, 2005 Conservation Commission meeting to Promulgate Local Filing Fee language.

Amended at the October 20, 2005 Conservation Commission meeting to include Enforcement Section

Amended at the January 18, 2006 Con Com meeting to include Vernal Pool language in Section II and new waiver form and amended ACP

## **SECTION I - GENERAL PROVISIONS**

### ***A. AUTHORITY***

These Regulations are promulgated by the Town of Framingham Conservation Commission pursuant to the authority granted to it under Section 18 of the Town of Framingham Wetlands Protection Bylaw ("the Bylaw"). These Regulations shall complement and apply the Bylaw to particular circumstances, and will have the force and effect of law upon their effective date.

The failure of these Regulations to address all aspects of the Bylaw, or a legal declaration of their invalidity by a court of law, shall not act to suspend or invalidate the effect of the Bylaw. Moreover, to this extent that any provision or section of these Regulations are deemed invalid by a court of competent jurisdiction, the remaining provisions of said Regulations shall remain in full force and effect to the extent permitted by law.

### ***B. PURPOSE***

The purpose of these Regulations is to define and clarify the process and standards applied under the Bylaw by establishing definitions and uniform procedures by which the Conservation Commission may carry out its responsibilities under the Bylaw. Terms and definitions used herein are consistent with usage in the Bylaw, unless otherwise provided herein.

Wetlands and other Resource Areas (hereinafter called Resource Areas) contribute to a number of public interests and are therefore protected by the Bylaw. The Bylaw identifies additional interests not recognized by the Massachusetts Wetlands Protection Act and Massachusetts Rivers Protection Act (MGL Ch. 131 S.40, "the State Acts"). These include but are not limited to: erosion and sedimentation control, avoidance of water pollution, protection of wildlife and wildlife habitat, passive recreation values, aesthetics, and agriculture. Any permit issued under the Bylaw and Regulations must therefore not adversely affect these additional public interests not identified in the State Acts.

### ***C. JURISDICTION***

The Bylaw protects all areas defined in the Massachusetts Wetland Protection Act (310CMR 10.00).

The Bylaw provides additional protection to Resource Areas and Buffer Zones, all or portions of which are not subject to protection under the State Acts. These Resource Areas and buffer zones include:

1. Freshwater wetland, marsh, wet meadow, bog or swamp;
2. Vernal pool;
3. Land subject to inundation by surface water during a 100 year storm event;
4. Land subject to flooding;
5. Bank, Beach or Flat;
6. Lake or Pond;
7. Stream or River;

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8. Land under said waters;
9. Riverfront Area; and
10. Buffer Zone.

Buffer Zone means that area of land extending one hundred twenty five (125) feet horizontally outward from the boundary of any Resource Area specified above with the exception of Land subject to inundation by surface water during the 100 year storm event, land under said waters, and Riverfront Area.

### **SECTION II - RESOURCE AREAS PROTECTED UNDER THE BYLAW**

All Resource Areas defined in the bylaw are protected in their entirety from any form of alteration or degradation.

#### **A. *VERNAL POOL NO ALTERATION ZONE***

##### **1. Preamble**

Vernal Pools and their associated uplands are critical to the protection of wildlife habitat and rare plant and animal habitat. Vernal Pools constitute a unique and increasingly rare type of wetland that is inhabited by many species of wildlife, some of which are totally dependent on Vernal Pools and their associated upland habitat for their survival. Areas in the immediate vicinity of the Vernal Pool provide these species with important non-breeding habitat functions, such as migratory pathways, feeding, shelter, and over-wintering sites. Many other species utilize Vernal Pools and their associated uplands for breeding and non-breeding functions, although they are not restricted to this type of wetland. The protection of Vernal Pools and their associated upland habitats is essential for the survival of wildlife species that depend on these unique and threatened resource areas. Vernal Pools need not be certified in order to be protected under the Ordinance or these Regulations. Accordingly, a 125-Foot No Alteration Zone shall be established around all Vernal Pools. [See also Appendix 1 at the end of these regulations for further information on vernal pools.]

##### **2. Definition, Critical Characteristics and Boundary**

- a. A Vernal Pool is a temporary freshwater body, which, in most years holds water for a minimum of two (2) months and is free of established, reproducing fish populations.
- b. Vernal Pools exhibit a tremendous variation in physical, geographic, hydrologic and vegetative conditions, and are protected under this Bylaw if they meet any of the following criteria:
  - I. The Vernal Pool contains evidence of the presence of any one (1) of the following obligate indicator species: Spotted Salamander, Blue-Spotted Salamander, Jefferson Salamander, Marbled Salamander, Wood Frog or Fairy Shrimp, or;
  - II. In the absence of any obligate indicator species, the Vernal Pool contains evidence of two (2) of any of the facultative indicator species as listed under "Certification Criteria" in "Vernal Pool Fact Sheet" produced by the Natural Heritage and Endangered Species Program.

Timing of Evidence Collection: Many of the indicators of Vernal Pool habitat are seasonal. For example, certain salamander egg clusters are only found between late March and late May. Wood Frog chorusing only occurs between late March and late May, and then only

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at night. Consequently, failure to find evidence of breeding must be tied explicitly to those periods during which the evidence is most likely to be available.

Accordingly, in the case of challenges to the presumption of Vernal Pool habitat the Commission may require that the determination be postponed until the appropriate time period consistent with the evidence being presented. The Commission may also require its own site visits as necessary to confirm the evidence.

- c. The boundary of a Vernal Pool shall be defined as the mean annual high water of the Vernal Pool depression.
- d. As per the bylaw, Vernal Pool habitat is defined as “confined depressions which, at least in most years, hold water for a minimum of two continuous months, and which are free of adult fish populations, as well as the area within 125 feet of the mean annual boundaries of such depressions.”
- e. For the purposes of these regulations, the 125-foot No-Alteration Zone shall be defined as:
  - I. The entirety of Vernal Pool habitat (II. A. 2.d., above) for isolated Vernal Pools, or,
  - II. In the case of a Vernal Pool that lies within a larger wetland resource area, all land within 125 feet of the delineated edge of the larger wetland resource area.

### **3. Presumptions of Significance**

Where a proposed activity involves the removing, filling, dredging, or altering of a Vernal Pool or its 125-foot No-Alteration Zone, the Commission shall presume that the Vernal Pool and its 125-foot No-Alteration Zone are significant to the protection of wildlife habitat and rare plant and animal habitat.

This presumption may be rebutted by a showing of clear and convincing evidence that the Vernal Pool or its 125-foot No-Alteration Zone does not play a role in the protection of habitat for obligate vernal pool species. In the event that the presumption is deemed by the Commission to have been overcome, the Commission shall make a written determination to this effect, setting forth its grounds.

### **4. Performance Standards**

When the presumption set forth in Section II(A)(3) of these Regulations is not overcome, the following standards shall apply to Vernal Pools and their 125-foot No-Alteration Zones:

- a. 125-foot No-Alteration Zone: No activity, including wastewater and stormwater treatment systems or structures or outfalls, shall be permitted within 125 feet of the delineated edge of a Vernal Pool, or in the case of a wetland resource area that encompasses the pool, (Section I C. 1,3,4,5), within 125 feet of the delineated edge of the said wetland resource area. Prohibited activities include, but are not limited to, grading, landscaping, vegetation control, pruning, cutting, filling, excavation, roadway construction and/or driveway construction.
- b. No-Alteration Zone Demarcation: To maintain the perpetual integrity of the 125-foot No-Alteration Zone and to ensure that there will be no encroachments into this Zone by the applicant or future owners of the subject property, the Commission may require the No-

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Alteration Zone to be marked on the ground, at the applicant's expense, with permanent markers. These markers shall be made of weather resistant material (e.g., granite or concrete). The Commission shall determine their number, location and size. The Commission may require one or more of these markers to bear, on their upland side, writing (i.e. a permanent plaque or engraving) that shall read "No Alteration Beyond This Point By Order of The Framingham Conservation Commission".

### **5. Waivers and Mitigation**

In cases where the applicant can demonstrate to the Commission, that portions of the 125-foot No-Alteration Zone do not provide significant Vernal Pool habitat function, the Commission, at its discretion, may grant a waiver that allows alteration within the 125-foot No-Alteration Zone.

If a waiver is granted, the Commission shall require mitigation. Mitigation shall occur in close proximity to the subject vernal pool and result in:

- a. Improvement to existing degraded habitat or resource areas, and/or
- b. Permanent protection of additional functional Vernal Pool habitat and migratory corridors beyond the 125-foot No-Alteration Zone.

## **SECTION III - BUFFER ZONES PROTECTED UNDER THE BYLAW**

### ***A. PREAMBLE***

Buffer zones are presumed to be significant to the interests identified in Section I.B, above. Buffer zones are vital in protecting the interests of the Bylaw in many ways, including but not limited to:

1. Scattering sunlight and providing shade thereby lowering water temperature within wetlands;
2. Slowing water flow thereby decreasing water velocities, allowing infiltration, and reducing the erosion potential of stormwater runoff;
3. Trapping sediment and other insoluble pollutants;
4. Producing leaf litter and biomass which increases the humus content of the soil and increase absorption and infiltration;
5. Providing essential habitat for wetland-associated species;
6. Providing a visual separation between wetlands and developed environments; and
7. Reducing nutrient overloading by filtering nutrients bound to sediment in the surface flow, and removing nutrients from groundwater through uptake in vegetation.<sup>i</sup>

Buffer zones are also important to the protection of Resource Areas because activities undertaken in close proximity to Resource Areas have a high likelihood of adverse impact upon the Resource Area itself, either immediately, as a consequence of construction, or over time, as a consequence of daily operation or existence of such activities.<sup>ii</sup> Previous projects in Framingham which permitted work to the edge of a Resource Area have often resulted in direct alterations to the Resource Area itself.

### ***B. PRESUMPTIONS OF SIGNIFICANCE***

Where a proposed activity involves the clearing, filling, dredging, building upon or otherwise altering the buffer zone, the Conservation Commission shall presume that such activity will have an impact on the adjacent Resource Area. The presumption is rebuttable and may be overcome upon a clear and convincing showing that such activity will not impact the adjacent Resource Area and that the activity can be conditioned to meet the performance standards for the protection of the Interests of the Bylaw.

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The Commission therefore may require that the applicant maintain a strip of continuous, undisturbed vegetative cover in part or all of the 125 foot buffer zone and set other conditions on this area, unless the applicant provides clear and convincing evidence deemed sufficient by the Commission that the buffer zone or part of it may be disturbed without harm to the values and interests specified in this bylaw.

In some circumstances certain types of activities, when properly conditioned, may be acceptable in the buffer zone. Under other circumstances even minimal buffer zone disturbance may have serious harmful effects on Resource Area values and functions. The actual determination of impact must be made on a project-and site specific basis by the Conservation Commission, in reliance on their specialized knowledge of the Bylaw, these Regulations, the impact of various activities on the Buffer Zones and Resource Areas, and other factors within the Commission's knowledge and expertise. The actual impact of proposed buffer zone work or activities on wetland values and functions can often be reduced substantially, and thus made permissible, when appropriate conditions are imposed.

A growing body of research evidence suggests that even "no work" areas reaching 125 feet from Resource Areas may be insufficient to protect many important Resource Area characteristics and values. Problems of nutrient runoff, water pollution, siltation, erosion, vegetation change, and habitat destruction are greatly exacerbated by activities within 125 feet of Resource Areas.<sup>iii</sup> Thus, in general, work and activity within 125 feet of Resource Areas should be avoided and discouraged and reasonable alternatives pursued.

Accordingly, the Conservation Commission shall begin with the presumption that buffer zones are best left in an undisturbed and natural state. However the Commission shall designate areas of the buffer zone to be suitable for disturbance as appropriate when the applicant can demonstrate in a clear and convincing manner to the Commission's satisfaction that the proposed work or activity will not affect Resource Area values singularly or cumulatively and that reasonable alternatives to the proposed work or activity do not exist.

### ***C. PERFORMANCE STANDARDS WITHIN THE BUFFER ZONES***

In considering the types of work and activities allowable in the buffer zone, the Conservation Commission shall consider:

- (a) Values and Functions of the adjacent Resource Area(s);
- (b) Pre-Project Characteristics of the Site (e.g. ground slope, soil conditions, vegetation, and prior disturbance); and
- (c) Wildlife Habitat and Rare Species (both flora and fauna).

- 1. 125 foot Buffer Zone:** Activities within any portion of a buffer zone shall not adversely affect the form or function of the Resource Area. The Commission reserves the right to regulate the application of pesticides, herbicides, fertilizers, sodium chloride, and other materials in the buffer zone because of their potential impact upon the Resource Areas, including nutrient loading and other forms of pollution.

- 2. 30 foot No Alteration Zone for Undisturbed Lands**

- a. Undisturbed Land is land determined by the Commission to be of a predominantly natural character or to have been altered after August 28, 1992 without a permit from the Conservation Commission.
- b. No alterations are permitted within 30 feet horizontally outward from the boundary of any Resource Area.

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- c. Prohibited alterations include, but are not limited to, grading, landscaping, clearing or cutting of vegetation, filling, excavating, dumping of leaves or lawn refuse, construction of roads or structures, or removal of naturally occurring leaf litter and debris.
- d. Structures include, but are not limited to: single family houses, multi-family dwellings, commercial or industrial buildings, porches, decks, house additions, pools, septic systems, and sheds.

### **3. 30 foot No Alteration Zone for Disturbed Lands**

- a. Disturbed Land is land determined by the Commission to be of a legally modified nature (e.g., parking lot, lawn, non-native landscaping, patio, etc.), modified prior to August 28, 1992, or after that date with a permit from the Conservation Commission).
- b. No alterations resulting in a net increase in impervious surface area, a net increase in non-native or invasive species, a net increase in stormwater runoff, a net increase in lawn area, or net decrease in vegetative cover will be permitted within 30 feet of the edge of the Resource Area
- c. No structures shall be constructed or placed on pervious surfaces within 30 feet of the edge of the Resource Area without compensatory restoration and mitigation.
- d. Structures include, but are not limited to: single family houses, multi-family dwellings, commercial or industrial buildings, porches, decks, house additions, pools, septic systems, and sheds.

### **4. Additional No Alteration Zones**

No alteration shall be permitted in the entire 125 foot buffer zone or Riverfront Area of the following unique habitats or natural communities as long as said area falls within a Resource Area protected under the State Acts or the Bylaw:

- a. Vernal pools as defined in Article V Section 18.9 (of the municipal Bylaw) and Appendix 1 of these regulations [see also Section II A. of these regulations for further detail on regulations related to vernal pools];
- b. Important Bird Areas (Appendix 2);
- c. Portions of the Riverfront Area of the Sudbury River designated as “Wild and Scenic” (Appendix 3);
- d. Estimated Habitat for Rare Wetlands Wildlife as identified by Natural Heritage and Endangered Species Program (NHESP); and
- e. NHESP BioMap Core Areas or Supporting Landscape (Appendix 4).

The Commission may require the No Alteration Zone be marked with permanent monuments, as approved by the Commission. Said monuments shall be shown on an as-built plan to be referenced on the Certificate of Compliance and recorded at the Registry of Deeds at the applicant’s expense (Appendix 5). The applicant shall provide proof of filing to the Commission, specifically a copy of the recorded instrument showing book and page number, instrument number, and other pertinent recording information.

## **SECTION IV – PROCEDURES**

### **A. APPLICATIONS FOR PERMITS**

Written applications shall be filed with the Commission to officially determine the boundaries of resource areas and/or to perform activities altering resource areas and/or Buffer Zones protected by the Bylaw. The permit application, (Framingham’s Application for Conservation Permit, available from the Conservation Office) **AND** Notice of Intent, Abbreviated notice of intent, Abbreviated Notice of Resource Area Delineation, Request for an Amended Order of Conditions, or Request for Determination of Applicability) shall include such information and plans and completed DEP Field Data Forms, Stormwater Management

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Form, and Riverfront Area Form as are deemed necessary by the Commission to determine resource area boundaries and to describe proposed activities and their effects on the Resource Areas and areas protected by the Bylaw. A permit application is not complete until all required application materials have been received by the Conservation Commission. No hearing or meeting for the proposed project will be scheduled until all required application materials have been received.

### 1. Copies

The Applicant shall submit eight (8) copies of the Application for Conservation permit with supporting documentation (plans, narrative, stormwater management report) etc. Only one copy of the state form (NOI, RDA, ANOI, or ANRAD) is required. This documentation is required at least two (2) weeks prior to the next Conservation Commission Meeting. The applicant shall also submit to the Commission eight (8) sets of any revised, amended, or supplemental information introduced or referred to by the applicant during the course of the public hearings on the application. The Commission may, at any time during the review process, require the submission of extra copies of the application and/or plans.

### 2. Plan requirements

The following minimum requirements apply to plans submitted with Framingham's Application for Conservation Permit (ACP) **AND** Notice of Intent, Request for an Amended Order of Conditions, Request for a Certificate of Compliance, or Abbreviated Notice of Resource Area Delineation. At its sole discretion the Commission may relax these requirements for small projects.

#### a. Resource Area Designations on Plans

All plans submitted to the Conservation Commission for a permit under this Bylaw must show all Resource Areas on the property and within 125 feet of the property lines (200 feet in the case of perennial streams), regardless of whether or not the proposed work is expected to occur within the jurisdictional areas associated with the resource. In those instances where the project is part of a subdivision, a plan must be submitted to the Conservation Commission showing all wetland resources located within the subdivision boundaries and within 125 feet of those boundaries (200 feet in the case of perennial streams).

#### b. Other Plan Requirements

- Scale: As needed to show all necessary details, but at a ratio no greater than 1"=40'
- Wetland boundaries indicated by numbered points corresponding to flags placed in the field
- Buffer Zone boundary lines of all Resource Areas on the property and within 125 feet of the property line
- No Alteration Zones
- Riverfront Area (if applicable)
- Existing improvements, e.g. buildings, sheds, pools, stone walls
- Existing topography and proposed contours at contour intervals no greater than two feet
- All proposed or completed alterations
- Erosion/sedimentation control measures
- Replication Areas (if applicable)
- Property boundaries, rights-of-way, easements
- Pre- and post-development tree canopy line within buffer zone (for subdivisions only)

Failure to provide this information, failure to avoid or prevent unacceptable significant or cumulative effects upon the wetland values protected by the bylaw and regulations, or providing erroneous or false information shall be grounds for denying, suspending, or revoking the permit as outlined in Section 18.7 of the Bylaw.

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### 3. Municipal Filing Fees

The review of applications and monitoring of projects requires the expenditure of significant municipal resources. Therefore, the following municipal filing fees are required at the time of filing:

- a. Request for Determination of Applicability:  
A municipal filing fee of \$100.00 shall apply.
- b. Notice of Intent, Abbreviated Notice of Intent, Abbreviated Notice of Resource Area Delineation, or Request for an Amended Orders of Conditions:  
A municipal filing fee equal to the full filing fee under the Massachusetts Wetlands Protection Act shall apply.

Filings in this category associated with the rectification of a violation: a municipal filing fee of double the fee due under the Wetlands Protection Act shall apply.

- c. Request for Certificate of Compliance:  
A municipal filing fee of \$50.00 shall apply.
- d. Request for a duplicate original of Order of Conditions, Amended Order of Conditions, or Certificate of Compliance:  
A municipal filing fee of \$25.00 shall apply.

This fee is not refundable. The fee is in addition to that required by the Wetlands Protection Act, G.L. Ch. 131 §40, and Regulations, 310 CMR 10.00. Town, county, state, and federal projects are exempt from the filing fee.

### 4. Notification Requirements

The applicant is responsible for the notification of all abutters, as described in Section V of the Framingham Wetlands Protection Bylaw.

The Conservation Commission is responsible, at the expense of the Conservation office, for placing an initial notification of the subject public hearing/meeting in the local newspaper. Subsequent notifications, if necessary, are the responsibility of the applicant.

## ***B. TIMEFRAMES FOR SUBMISSION OF DOCUMENTATION***

All documentation (e.g., plans, maps, tables, charts, reports, etc.) to be considered as part of a permit filing by the applicant must be submitted to the Conservation Commission at least 10 business days before a scheduled public meeting. If additional information is requested as part of a continuance of a public meeting, the Applicant must submit said information no later than 5 business days prior to the scheduled public hearing, or its continuation. This is the minimum time needed to allow the Commission and staff to properly review, analyze, and check the information provided. Documentation submitted with fewer than the minimum five business days for review may be excluded from consideration at the scheduled hearing and held for discussion at a subsequently scheduled meeting.

## ***C. REVIEW PERIOD***

### 1. Resource area boundary determinations

Resource area boundary delineations shall be reviewed only between April 1 and December 1 of each year. Delineations may be reviewed at the sole discretion of the Commission or its agents



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between December 1<sup>st</sup> and April 1<sup>st</sup>, and shall be reviewed only when site conditions are such that the Commission or its agents believe they can adequately review the relevant resource area indicators (e.g., soils, vegetation, topography, hydrology).

### **2. Vernal Pool Determination**

Many of the indicators of vernal pool habitat are seasonal. For example, certain salamander egg clusters are only found between late March and late May. Wood frog chorusing only occurs between late March and May, and then only at night. Consequently, failure to find evidence of breeding must be tied explicitly to those periods during which the evidence is most likely to be available.

Accordingly, in the case of challenges to the presumption of vernal pool habitat the Conservation Commission may require that the determination be postponed until the appropriate time period consistent with the evidence being presented. The Commission may also require its own site visits as necessary to confirm the evidence.

### ***D. OUTSIDE CONSULTANT FEE***

As provided by GL Ch. 44, § 53G, the Commission may impose upon and collect from applicants reasonable fees for the employment of outside consultants, for services deemed necessary by the Commission to adequately review an application submitted to the Commission (Appendix 6).

### ***E. REVIEW AND EXECUTION OF ORDERS OF CONDITIONS***

After the close of a public hearing, the Conservation Commission will discuss one or more draft orders of conditions for possible approval. Approval consists of a successful motion to approve the order, and the signatures of a majority of the Commission. Review and approval will take place at a public meeting, held either at the same meeting that the public hearing was closed, or at a subsequent meeting.

## **SECTION V- WAIVERS AND MITIGATION**

The performance standards for Resource Areas and their buffer zones have been adopted to ensure that the interests of the Bylaw are adequately protected. The Commission recognizes that, in certain situations, a waiver of a specific performance standard may be appropriate for a particular project when the waiver is consistent with the intent and purpose of the Bylaw and these Regulations. The applicant shall have the burden of demonstrating by a clear and convincing standard that the granting of the waiver is consistent with the intent and purpose of the Bylaw and these Regulations. The Commission shall act on the request for a waiver and shall provide to the applicant, either by certified mail or hand delivery, its written decision. The following paragraphs describe the waiver and its associated mitigation measures for the buffer zone performance standards.

### ***A. WAIVERS***

The commission may grant a waiver from these Regulations for an alteration of a buffer zone area in situations where no feasible alternative provides less impact upon the Resource Area values. The applicant is responsible for conducting an alternatives analysis to show that there are no such feasible alternatives. The Commission may grant a waiver of a performance standard and impose such additional or substituted mitigation requirements as it deems necessary. The applicant must show, clearly and convincingly that:

1. There are no practicable conditions or alternatives that would allow a project to proceed in compliance with the Regulations; and

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2. The project, or its natural and consequential effects, will have the least possible adverse effects upon any of the interests protected by the Bylaw.

Practical alternatives to locate the project outside these areas must be investigated and should one or more prove feasible the plan must be amended to relocate all activities accordingly. The Commission shall consider as practical alternatives options that were available to the applicant but appear to be precluded due to self-imposed hardships and constraints (e.g., lot, roadway, and drainage layouts engineered without prior regard to impact on Bylaw Resource Areas). If in the Commission's view there are no practical alternatives, project impacts must be minimized and mitigated resulting in the least possible adverse impacts to the Resource Areas. If the Commission determines that the project will have significant adverse impacts on the Resource Areas then the project shall be denied.

### ***B. MITIGATION***

In the case where a waiver is granted, the Commission shall require mitigation measures to be implemented to offset impacts or potential impacts to Resource Areas. The mitigation must maintain or improve the natural capacity of a Resource Area to protect the interests identified in the Bylaw. For example, the Commission may require that an additional No Alteration Zone be provided at another location on the applicant's property or that an equivalent or greater portion of the property be devoted to Buffer Zone restoration (See Appendix 7).

## **SECTION VI – ENFORCEMENT**

Wetland Violations and Enforcement take many forms. The most common problems are (1) action without a permit, (2) action in violation of a permit, and (3) failure to take action required by a permit. Properties owners are responsible for violations that occur on their property. The ultimate goals of the Commission's enforcement actions are:

- ensuring prompt and continued compliance with the regulations,
- protecting the Town's wetland resource areas, and
- educating the public about the various issues involved with protecting wetlands.

### ***A. CONSERVATION OFFICE RESPONSE TO WETLAND VIOLATIONS***

If the Conservation Office becomes aware of a possible wetland violation, a representative of the Commission (herein referred to as the representative) will review records and available resources/tools (such as aerial photos) and conduct a site visit. If the landowner does not grant permission for the representative to observe the alleged violation from the property, the representative will make observations from a public location (street or town property) and/or from an adjacent property with that landowner's permission. The Representative will take photographs and detailed notes, and determine whether or not there is a wetland violation and, if so, what type of violation it is.

### ***B. TYPES OF VIOLATIONS***

#### **1. Minor Violations**

- a. Unauthorized activity in a Buffer Zone (e.g., disposal of trash, cutting of vegetation, regrading, construction, etc.).
- b. Small quantities of debris (e.g., yard waste or trash) placed in a Resource Area.
- c. Minor violation of Orders of Conditions (e.g., failure to maintain small portions of erosion controls provided there has been no adverse impact on the resource areas, minor changes within the limit of work that have not resulted in impacts to the resource areas, etc.).

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### 2. Major Violations

- a. Repeat and/or large scale occurrences of Minor Violations.
- b. Vegetation clearing/cutting in a Resource Area.
- c. Other unauthorized activity in a Resource Area.
- d. Unauthorized activity beyond the scope of a permitted project (either one that has an Order of Conditions or a Determination of Applicability) when said activity has occurred beyond the limit of work or it has adversely impacted a resource area.
- e. Violations of an Enforcement Order.
- f. Conducting work outside the one-hundred twenty-five (125) foot buffer zone or two-hundred (200) foot Riverfront Area, which has impacted a Resource Area

### C. *ADDRESSING VIOLATIONS*

Actions taken to resolve violations under the Bylaw may include, but are not limited to:

- A **Notice of Violation** signed and issued by a single member or agent of the Commission. The Notice of Violation shall be sent by certified mail, return receipt requested, or by hand delivery to the responsible party.
- An **Enforcement Order** signed and issued by a single member or agent of Commission, as long as said Order is ratified by a majority of the Commission at their next scheduled meeting. The Enforcement Order shall be sent by certified mail, return receipt requested, or by hand delivery to the responsible party. If it is hand delivered, the individual who delivered the document should sign the Order and either obtain a receipt or draft an affidavit documenting service for the files. Any time an Enforcement Order is amended, the Amended Order shall also be properly served on the responsible party.
- **Fines** for violation of the Bylaw through the G.L. c.40, Section 21D process (Appendix 8). Each day an illegal situation persists shall be counted as a separate offense, beginning with the date the violation occurred or the date when the Commission becomes aware of the violation.

#### 1. Steps to bring Minor Violations into compliance

- a. A **Notice of Violation** will be issued which lists the date of the site visit, the location of the violation, and the type of violation that has occurred. The property owner will be informed of the problem and will be given a list of simple corrective steps that he/she shall take immediately to prevent further damage. The letter will further detail specific corrective actions with time frames that are required to bring the property into compliance with wetland laws. The Administrator will conduct a site visit to ensure such corrective measures have been addressed in the requested time.
- b. The property owner may be required to attend a Public Meeting. The property owner will be notified at least 48 hours in advance of the Public Meeting. Failure to attend the meeting scheduled, or to arrange an alternative acceptable time, may result in an Enforcement Order being issued at the stated meeting time and date.
- c. Failing to receive an adequate response to the Notice of Violation, the Commission may issue an **Enforcement Order** under the Act and under the Bylaw. If only one document is issued pursuant to both the Act and the Bylaw, each law should be cited on the document's face.
- d. A **Fine** will be issued on a case by case basis (Appendix 8). Should the Notice of Violation not be complied with or the property owner act in an uncooperative manner, a fine shall be issued in accordance with the Wetland Violation Fine Structure.

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### 2. Steps to bring Major Violations into compliance

- a. A **Notice of Violation** will be issued which lists the date of the site visit, the location and type of violation that has occurred. The property owner will be informed of the problem and will be given simple corrective steps that should be taken immediately to prevent further damage. The property owner will be informed of the next upcoming public meeting that he/she shall attend. The violator will be notified at least 48 hours in advance of the Public Meeting.
- b. A **Public Meeting** will be scheduled with the Commission to discuss the violation and to detail specific restoration requirements.
- c. The Commission will issue an **Enforcement Order**. The Enforcement Order will include specific requirements for the restoration of the site to its original condition within a specified time period. This Order may require a detailed Restoration Plan, prepared by a qualified professional, including specific dates for submissions, construction, and compliance milestones. Once an acceptable Restoration Plan is received, the plan will be incorporated as a dated attachment to the original Enforcement Order.
- d. A **Fine** may be issued in accordance with the Wetland Violation Fine Structure (Appendix 8).
- e. Enforcement discussions may be continued to a specific date and time.
- f. Failing to receive an adequate response, further action may be taken through criminal or civil action as described in DEP's *Wetlands Enforcement Manual – A guide to effective compliance with the Massachusetts Wetlands Protection Act Regulations, November, 2004*.

#### ***D. FACTORS IN DETERMINING THE ISSUANCE OF A FINE***

The Commission shall consider the following factors in imposing fines:

1. Whether the violation was willful or negligent;
2. Any economic benefit gained by the defendant as a result of the violation;
3. Actual and potential harm to the public interests (as described in the bylaw and regulations), safety, or the environment resulting from the violation;
4. Actual and potential cost to the Town of Framingham resulting from the violation, including its enforcement costs and attorneys fees;
5. Actual and potential damages suffered by the Town of Framingham or any other person(s), resulting from the violation, including its enforcement costs and attorneys fees;
6. Whether the violator took steps to prevent the violation(s);
7. Whether the violator promptly took steps to come into compliance after the occurrence of the violation(s);
8. Whether the violator took steps to remedy and mitigate whatever harm occurred as a result of the violation(s);
9. Any history of noncompliance by the violator;
10. Deterrence of future violations.

#### ***E. RECORDING AN ENFORCEMENT ORDER***

The Commission may record an Enforcement Order issued under Section 8 of the Bylaw with the Registry of Deeds when (1) it has information that the property in violation of this Bylaw may change ownership, (2) when the owner of the property in violation has failed to respond to the Enforcement Order after ten business days, or (3) when the owner of the property in violation has failed to file a corrective Notice of Intent within 30 days of receipt of the Enforcement Order.

#### ***F. APPEALS***

Enforcement Orders may be appealed to the Superior Court of Massachusetts.

## **Framingham Wetlands Protection Regulations**

### **Footnotes**

<sup>i</sup> Castelle, A.J., C. Conolly, M. Emers, E.D. Metz, S. Meyer, M. Witter, S. Mauermann, T. Erickson, S.S. Cooke. 1992. Wetland Buffers: Use and Effectiveness. Adolfson Associates, Inc., Shorelands and Coastal Zone Management program, Washington Department of Ecology, Olympia, Pub. No. 92-10.

<sup>ii</sup> The effects of urbanization on the biological, physical, and chemical characteristics of coastal New England streams (U.S. Geological Survey Professional Paper 1695, 47 p. by James Coles, Thomas Cuffney, Gerard McMahon, and Karen Beaulieu, 2004). Water Quality in the New England Coastal Basins; Maine, New Hampshire, Massachusetts, and Rhode Island, 1999–2001 (U.S. Geological Survey Circular 1226 by Keith W. Robinson, Sarah M. Flanagan, Joseph D. Ayotte, Kimberly W. Campo, Ann Chalmers, James F. Coles, and Thomas F. Cuffney, 2004)

<sup>iii</sup> Buffer zones and Beyond: Wildlife use of Wetland Buffer zones and their Protection under the Massachusetts Wetlands Protection Act; A Professional M.S. Degree Project Presented by Andrea Lynn Boyd.

## Appendix 1

### **Importance of Upland Habitat for Protection of Vernal Pool Species**

Vernal Pools are temporary bodies of fresh water that provide critical habitat for many vertebrate and invertebrate wildlife species. Vernal pools provide unique habitat for a variety of forest and wetland organisms, some of which depend on this pool habitat for their survival. Vernal pools do not support fish because they dry out annually or at least periodically. Some may contain water year round, but are free of fish as a result of significant draw-downs that result in extremely low dissolved oxygen levels. “Obligate” vernal pool species, such as the wood frog (*Rana sylvatica*), mole salamanders (*Ambystoma sp.*), and fairy shrimp (*Order Anostraca*) will only breed in vernal pools and therefore are dependent on this critical habitat. “Facultative” species, such as certain amphibians and reptiles along with several kinds of aquatic invertebrates often exploit the fish-free waters of vernal pools but do not depend on them.

### ***Presumption of Vernal Pool Habitat***

The Bylaw presumes vernal pool habitat exists if a wetland’s physical characteristics conform to those defined for vernal pools in Section 18.9 (Definitions) of the bylaw, or if it is so indicated as such in the *Massachusetts Aerial Photo Survey of Potential Vernal Pools*.

This presumptive definition for vernal pools is based on systematic field observation in the Town of Framingham by the Framingham Conservation Commission showing that virtually all basins that possess the above characteristics actually host breeding vernal pool species. Undoubtedly this is a particular consequence of Framingham’s woodland and wetland habitats.

The presumption of vernal pool habitat may be overcome, however, with the presentation of credible evidence, which in the judgment of the Conservation Commission demonstrates that the wetland does not provide, or cannot provide, vernal pool habitat functions.

### ***Demonstrating that a Ponding Area is not a Vernal Pool***

For the purposes of overcoming the presumption of vernal pool habitat, the commission will consider:

- Evidence that the ponding area does not hold water for at least two continuous months in most years. The term “most years” shall mean 3 out of 5 consecutive years.
- Evidence that vernal pool species do not breed or have not bred in the ponding area. The Conservation Commission shall provide explicit guidelines for this evidence.
- Evidence that the ponding area could not be a viable breeding site for vernal pool species due to incompatible physical, chemical, biological, or other persistent conditions at the site in most years; such as dissolved oxygen measurements yielding values incompatible with amphibian or reptile breeding.

### ***References***

Burne, M. 2001. *Massachusetts Aerial Photo Survey of Potential Vernal Pools*. Westborough, MA: Massachusetts Division of Fisheries and Wildlife, Natural Heritage and Endangered Species Program.

Colburn, E. 2004. *Vernal Pools Natural History and Conservation*. The McDonald & Woodward Publishing Co. Virginia.

Massachusetts Division of Fisheries and Wildlife. 1988. “Guidelines for certification of vernal pool habitat.” Westborough, MA: Natural Heritage and Endangered Species Program.

## **Appendix 2**

### **Important Bird Areas**

An Important Bird Area (IBA) is a site providing essential habitat to one or more species of breeding, wintering, and/or migrating birds. The IBA program is a national program that utilizes conservation partnerships to identify and monitor places that are critical to birds during some part of their live cycle, in order to minimize the effects of habitat loss and degradation on bird populations. These sites contain vulnerable, threatened or endangered species, endemic species, species representative of a biome, or concentrations of seabirds, waterfowl, raptors, shorebirds, waders, or migratory land birds.

Massachusetts Audubon Society has identified and approved 79 sites in Massachusetts. Two of these sites (Sudbury and Foss Reservoirs and Sudbury/Concord River Valley) are found in Framingham (see maps below). Volunteers from both an IBA technical committee and the public nominated the IBAs. This process relied on the collective knowledge of environmentalists, birders, and professional conservationists.

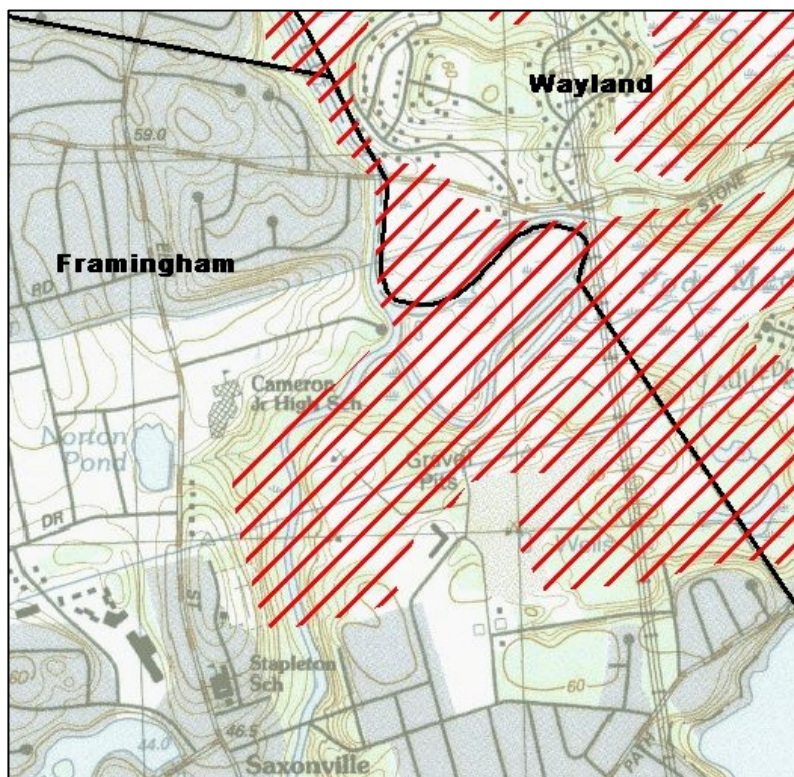
For a site to be nominated, it had to meet certain criteria, and be approved for nomination by IBA staff. Five criteria were established and can be viewed on the Mass Audubon web site ([http://www.massaudubon.org/Birds\\_&\\_Beyond/IBAs/criteria.php](http://www.massaudubon.org/Birds_&_Beyond/IBAs/criteria.php)). Sites may be protected or unprotected, public or private. The sites may vary in size but are usually discrete and distinguishable in character, habitat, or ornithological importance from surrounding areas. Site boundaries may be either natural (e.g., rivers, watersheds) or human-made (e.g., roads, property boundaries). An IBA, whenever possible, should be large enough to supply all or most of the needs of birds during the season for which the IBA is important. A site that meets any one of the criteria in the five categories may qualify as an Important Bird Area, and some sites may meet several criteria.

Nominations were submitted by volunteers that described a site's adherence to these criteria and the extent to which the criteria were supported by data on the abundance and diversity of birds that use the site. Nomination forms, along with maps and supporting documentation, were submitted to Mass Audubon IBA staff and approved in December 2003. A complete site listing can be found at:  
[http://www.massaudubon.org/Birds\\_&\\_Beyond/IBAs/sites.php](http://www.massaudubon.org/Birds_&_Beyond/IBAs/sites.php)

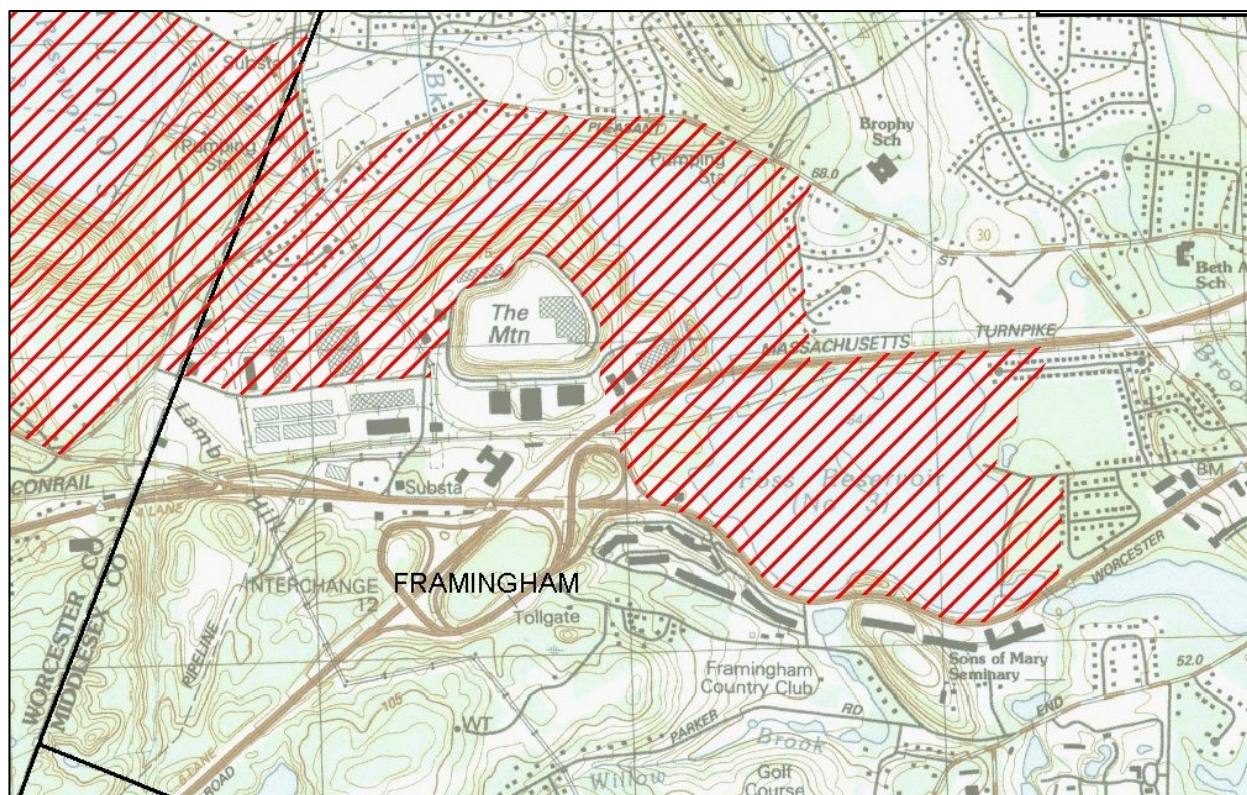


## Framingham Wetlands Protection Regulations

### Sudbury/Concord River IBA (Hatched section demarcates IBA area)



### Sudbury and Foss Reservoir IBA (Hatched section demarcates IBA area)

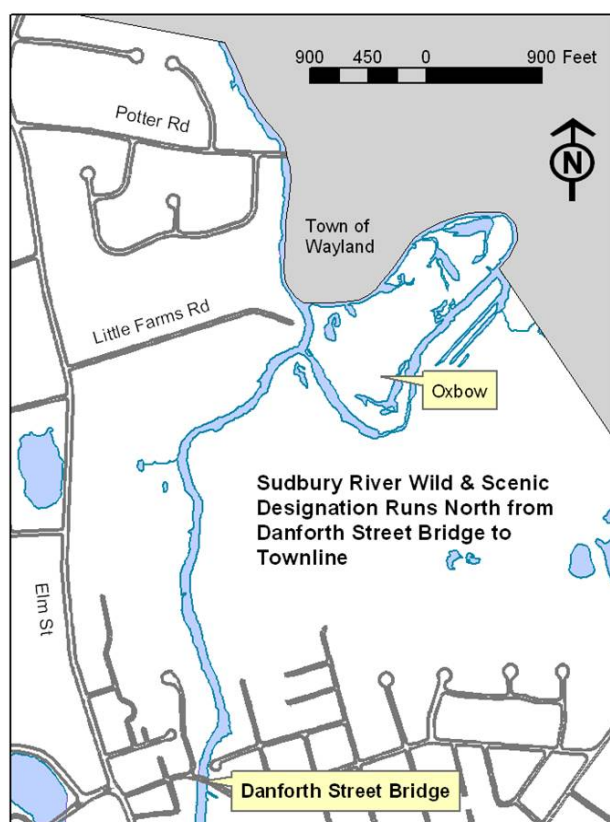




# Appendix 3

### Wild and Scenic River Designation

Twenty-nine miles of the Sudbury, Assabet and Concord Rivers, from Framingham to Billerica, have been nationally designated as Wild and Scenic Rivers. They received this designation in 1999 in recognition of their unique literary and historical significance, their beauty, and their value for recreation and wildlife. With this designation, Congress joined with eight river towns and the State in acting to protect the unique values of this river. Section 7 of the Wild and Scenic Rivers Act restricts federal activities that have a direct and adverse effect on the values for which the river was designated. Each of the towns along the wild and scenic segment have also committed to work to protect the river resources. The Wild and Scenic River Stewardship Council (RSC), on which Framingham is represented, was created and directed in legislation, to work with the Department of Interior to ensure the long term protection of these Rivers.



**Map 1 Wild & Scenic Segment of the Sudbury River in Framingham**

The presence of natural vegetation within Riverfront Areas is critical to sustaining rivers as ecosystems and providing these public values. The Riverfront Area can prevent degradation of water quality by filtering sediments, toxic substances (such as heavy metals), and nutrients (such as phosphorus and nitrogen) from stormwater, nonpoint pollution sources, and the river itself. Sediments are trapped by vegetation before reaching the river. Nutrients and toxic substances may be detained in plant root systems or broken down by soil bacteria. Natural vegetation within the riverfront area also maintains water quality for fish and wildlife.

### *References*

Sudbury, Assabet and Concord Wild and Scenic River Study, River Conservation Plan, March, 1995, 62pp.

### *Online Information Sources:*

<http://www.sudbury-assabet-concord.org/> (website of the Sudbury, Assabet, and Concord River Stewardship Council)

<http://www.mass.gov/dfwele/river/suascowild.htm> (has the best map of the entire designation)

<http://www.nps.gov/rivers/wsr-suasco.html> (National Park Service Wild & Scenic Rivers)

<http://www.nps.gov/nero/rivers/sudbury.htm> (Nat. Park Service site about the Sudbury)

[http://www.nps.gov/ncrc/programs/pwsr/suasco\\_pwsr\\_sub.html](http://www.nps.gov/ncrc/programs/pwsr/suasco_pwsr_sub.html) (NNPSe site about the Sudbury)

## Appendix 4

### **Natural Heritage and Endangered Species Program (NHESP) BioMap's Core Habitat and Supporting Natural Landscape Areas in Framingham**

The BioMap Project was designed to identify the areas crucial to the survival of the state's rare and common species as well as exemplary natural communities, by targeting those natural areas where these communities could best survive. Completed in 2001, the BioMap delineated the most important areas for the long-term viability of terrestrial, wetland, and estuarine elements of biodiversity in Massachusetts.

The most critical sites for the conservation of biodiversity are called "Core Habitats." They represent places where rare plant and animals have the best chance of survival and growth. By identifying the most intact lands adjacent to and near Core Habitat areas, the "Supporting Natural Landscape" serves to buffer and link Core Habitat patches. This supporting landscape often provides adequate land area, contiguous with Core Habitat areas, to maintain the ecological processes and patterns that have allowed species to evolve and survive for thousands of years. These areas also provide habitat for a wide range of common species that contribute to Massachusetts' biodiversity. Finally, Supporting Natural Landscape areas are important because they may contain unknown rare species populations.

The BioMap for Framingham has one small Core Habitat with Supporting Natural Landscape next to Farm Pond and a Supporting Natural Landscape to a Core Habitat outside town boundaries northeast of Saxonville. Framingham's BioMap is available to view at the Conservation Office.

### ***References***

Massachusetts Division of Fisheries & Wildlife. 2004. *Framingham BioMap and Living Waters: Guiding Land Conservation for Biodiversity in Massachusetts*. Natural Heritage & Endangered Species Program.

Massachusetts Division of Fisheries & Wildlife. 2001. *BioMap; Guiding Land Conservation for Biodiversity in Massachusetts*. Natural Heritage & Endangered Species Program

For an overview of the Biomap Project, see: <http://www.mass.gov/dfwele/dfw/nhesp/nhbiomap.htm>.

## **Appendix 5**

### **Permanently Marking the No Alteration Zone**

To maintain the integrity of the No Alteration Zone and to ensure no encroachment into the No Alteration Zone, the Commission may require the No Alteration Zone to be marked on the ground, at the applicant's expense, with permanent surveyor's markers, such as iron rods, boulders or other permanent indicator.

In addition, to apprise the applicant and future owners of the existence of the No Alteration Zone, the Commission may require one or more engraved granite monuments to be placed on the boundary of the No Alteration Zone. The monument shall measure 6-inch x 6-inch x 6-feet and be set 4 feet above the ground in a location approved by the Commission. The upland side of the monument shall be engraved to read: "NO DISTURBANCE BEYOND THIS POINT PER ORDER OF THE FRAMINGHAM CONSERVATION COMMISSION".

If required, the No Alteration Zone shall be defined by metes and bounds on a plan prepared by a Registered Land Surveyor of the Commonwealth of Massachusetts. The permanent survey markers and/or the engraved granite monument(s) shall be shown and identified on this plan. The plan shall be recorded together with the Order of Conditions within 30 days of issuance at the Middlesex County Registry of Deeds or, if the land is registered, at the Land Court. Proof of recording shall be submitted to the Conservation Commission within 21 days of recording of the Order of Conditions and the plan. The Commission may require the Certificate of Compliance to reference an as-built plan showing the No Alteration Zone. Both the Certificate and the as-built plan shall be recorded at the Registry of Deeds at the applicant's expense.

## **Appendix 6**

### **Regulations for Hiring Outside Consultants Under MGL Ch. 44, sec. 53G**

As provided by MGL Ch. 44, sec. 53G, the Framingham Conservation Commission may impose upon and collect from applicants under the Massachusetts Wetlands Protection Act and the Framingham Wetlands Bylaw reasonable fees for the employment of outside consultants, engaged by the Conservation Commission, for services deemed necessary by the Commission to adequately review an application submitted to the Conservation Commission pursuant to the requirements of the Wetlands Protection Act (MGL Ch. 131, sec. 40), the Town of Framingham **Wetlands Protection ByLaw** (Article V, Section 18) , or any other state or municipal statute, ordinance or regulation, as they may be amended or enacted from time to time, as well as such other submissions to the Commission in connection with or related to such application.

Funds received by the Conservation Commission pursuant to these regulations shall be deposited with the Town Treasurer who shall establish a special account for this purpose. Expenditures from this special account may be made at the direction of the Conservation Commission without further appropriation as provided in MGL Ch. 44, sec. 53G. Expenditures from this account shall be made only in connection with the review of a specific project or projects for which a consultant fee has been collected from the applicant.

After the applicant has presented his/her project to the Commission at a hearing, the members shall determine whether an outside consultant will be necessary in order for the Commission to make a fully informed decision on the application. The Commission shall give written notice to the applicant of the selection of an outside consultant, which notice shall state the identity of the consultant, the amount of the fee to be charged to the applicant, and a request for payment of said fee in its entirety. Such notice shall be deemed to have been given on the date it is mailed or delivered. No such cost or expenses shall be incurred by the applicant if the application or request is withdrawn within five days of the date notice is given.

The fee must be received in its entirety prior to the institution of consulting services. The Commission may request additional consultant fees if necessary review requires a larger expenditure than originally anticipated or new information requires additional consultant services. Failure by the applicant to pay the consultant fee specified by the Commission within ten (10) business days of the request for payment shall be cause for the Commission to deny the permit application for lack of information.

The applicant may appeal the selection of the outside consultant to the Board of Selectmen who may disqualify the outside consultant selected only on the grounds that the consultant has a conflict of interest or does not possess the minimum required qualifications. The minimum qualifications shall consist of either an educational degree or three or more years of practice in the field at issue or related field. Such an appeal must be in writing and received by the Board of Selectmen and a copy received by the Conservation Commission, so as to be received within ten (10) days of the date consultant fees were requested by the Conservation Commission. The required time limits for action upon the application shall be extended by the duration of the administrative appeal.

**ADOPTED BY VOTE OF THE CONSERVATION COMMISSION ON JUNE 2, 2004**

## Appendix 7

### Compensatory Restoration and Mitigation

In the case where a waiver is granted, the Commission shall require mitigation measures to be implemented to offset impacts or potential impacts to Resource Areas. The mitigation must maintain or improve the natural capacity of a Resource Area to protect the interests identified in the Bylaw. The purpose of this provision is to allow the opportunity to encourage conversion of lawn within the 30 foot No Alteration Zone back to a more natural landscape. It has been scientifically shown that:

- (a) Lawns typically require substantial application of pesticides, herbicides, fungicides, fertilizers and other chemicals that then discharge directly into wetlands. Additionally these chemicals cause direct harm to wildlife through ingestion or bioaccumulation through the food chain
- (b) Lawns contain less species diversity than naturally vegetated areas. Native communities represent a complex interrelated biotic association of plants, animals, microorganisms which have adapted to our region's ecological conditions over thousands of years. Lawns represent a monoculture that sustains few kinds of plants, animals, or microorganisms.
- (c) Lawns use a considerable amount of water. On average, U.S. homeowners use 40 to 60 percent of their household water on their yards.
- (d) There is less biological activity in the soil underlying a mowed lawn than there is in forest soil, so the earth is less tunneled and less water percolates down in the groundwater. This results in a 33-67% reduction in water infiltrating the soil and increases unfiltered runoff into wetlands.
- (e) Lawns lack trees and native plant communities. Tree anchoring roots often penetrate deeper soil blocks, increasing soil strength and resisting shallow mass soil movement. Roots also promote porosity and permeability.
- (f) Homeowners are more likely to dump leaves, trash, and debris directly into wetlands when their lawns extend to the wetland edge.

Wetlands, rivers, streams and ponds do not thrive in isolation, but depend on the land surrounding them to keep them healthy. Buffer Zones help keep wetlands strong and vigorous. Putting native plants back into the Buffer Zone helps to maintain ponds, streams and wetlands in their natural state by filtering out pollutants, providing habitats for wildlife, and securing stream banks against erosion.

Native plants (also called indigenous plants) are plants that have evolved to adapt to a particular region. As a result, native plants form communities that provide habitat for a variety of local wildlife. Once established, they provide a beautiful, hardy, drought resistant, low maintenance landscape while benefiting the environment.

Refer to the Commission's "Buffer Zone Restoration Guidelines" for more information.

### **References**

Castelle, A.J., C. Conolly, M. Emers, E.D. Metz, S. Meyer, M. Witter, S. Mauermann, T. Erickson, S.S. Cooke. 1992. *Wetland Buffers: Use and Effectiveness*. Adolfson Associates, Inc., Shorelands and Coastal Zone Management program, Washington Department of Ecology, Olympia, Pub. No. 92-10.

Pruitt, K.D., editor. *Buffer Zones: Science, Law and Solutions You Can Use*. 2003. Course book for Eleventh Annual Fall Conference, Massachusetts Association of Conservation Commissions.

Wasowski, Andy. *Dawn of the New Lawn*. Audubon Magazine. May-June 2001.  
<http://magazine.audubon.org/backyard/backyard0105.html>

## Appendix 8

### Wetland Violation Fine Structure

If a fine or an adjustment of fine for a violation is contemplated, the Commission will discuss this matter at a Public Meeting. The property owner will be given at least forty-eight (48) hours' notice in writing of the date, time, and place of the Public meeting, by certified mail return receipt requested or hand delivery. If a majority of the Commission present at the meeting finds, by a preponderance of the evidence, that a violation has occurred then the owner may be fined not more than three hundred dollars (\$300) per offence per day. Each violation may be considered a separate offense. Each day the violation continues constitutes a separate violation under the Bylaw.

### *Calculation of Fines*

The Bylaws of Framingham, Article 5, as amended at the December 2000 Special Town Meeting, allows as an alternative to criminal prosecution, the Conservation Commission to utilize the non-criminal disposition procedure set forth in MGL Ch. 40 sec. 21D. The following fee structure shall be utilized to maintain fairness and consistency. Each violation may be considered a separate offense. Each day the violation continues constitutes a separate violation under the Bylaw.

1. Unpermitted alteration of the Buffer Zone carries a \$150 fine.
2. Unpermitted alteration of the No Alteration Zone carries a \$200 fine.
3. Unpermitted alteration of a Resource Area carries a \$300 fine for each Resource Area altered.
4. Failure to secure necessary permits required to perform work within an Area Subject to Protection under the Bylaw carries a \$150 fine.
5. Leaving unpermitted fill in place within a resource area and/or buffer zone carries a \$300 fine.
6. Failure to record with the Registry of Deeds Order of Conditions issued under the Bylaw carries a \$150 fine.
7. Failure to notify the Commission prior to start of work carries a \$100 fine.
8. Failure to comply with all Conditions of a permit issued under the Bylaw carries a \$300 fine.
9. Failure to have the necessary bylaw permits and approved drawings and plans available at the project site at all times carries a \$300 fine.
10. Failure to properly use, maintain, and/or install erosion controls carries a \$100 fine for the first offense; \$200 for the second offense; and \$300 for each subsequent offense.
11. Conducting work outside the scope shown on an approved plan approved under the Bylaw carries a \$300 fine.
12. Failure to notify the Commission in writing in regard to any changes to an approved plan under the Bylaw carries a \$300 dollar fine.
13. Failure to properly secure any stockpiled material within the 125' buffer zone associated with an approved project carries a \$300 fine.
14. Failure to permanently stabilize all disturbed areas associated with an approved project within 30 days of completion of project carries a \$300 fine.
15. Failure to request a Certificate of Compliance for an Order of Conditions within 30 days of completion of the project carries a \$300 fine.
16. Failure to submit required replication monitoring reports carries a \$300 fine.
17. Failure to design required replication area as specified in approved plans carries a \$300 fine.
18. Failure to record the Certificate of Compliance with the Registry of Deeds carries a \$150 fine.
19. Failure to comply with requirements listed on the Town of Framingham's Notice of Violation or Enforcement Order carries a \$300 per day fine.